

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANTOINE ROSS,

Plaintiff,

- against -

DECLARATION OF  
JAMES G. FRANKIE, ESQ.

16CV06704(PAE)(KNF)

CAPTAIN DION WILLIS,  
CORRECTION OFFICER GEORGE #732,  
CORRECTION OFFICER GENOVES #17683,  
AND THE CITY OF NEW YORK,

Defendants.

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JAMES G. FRANKIE, ESQ., an attorney duly admitted to the practice of law in the State of New York, hereby declares under penalty of perjury pursuant to 28 U.S.C. §1746 the following to be true to the best of my knowledge:

1. I am a member of the law firm of Frankie & Gentile, P.C., attorneys for Defendant Captain Dion Willis in the above-captioned action.

2. I submit this Declaration in support of Defendant Willis' motion for an Order pursuant to Fed. R. Civ. P. 56(b) awarding Summary Judgment in Defendant Willis' favor, and awarding Defendant Willis such other and further relief as this Court may deem just, equitable and proper.

3. Attached as Exhibit "A" is a true and correct copy of DOC Operations Order No. 50/88, "Use of Force - Delivery of Prisoners to Court."

4. Attached as Exhibit "B" is a true and correct copy of DOC Directive 4510 R-G - Chemical Agents.

5. Attached as Exhibit "C" is a true and correct copy of DOC Directive 5006 R-C - Use of Force.

6. Attached as Exhibit "D" is a true and correct copy of New York City Department of Correction B Form DEF 0089 concerning the DOC Central Operations Desk notification concerning this incident.

7. Attached as Exhibit "E" is a true and correct copy of excerpts from the deposition of Captain Latonia Monroe.

8. Attached as Exhibit "F" is a true and correct copy of excerpts from the deposition of Chief Kenneth Stukes.

9. Attached as Exhibit "G" is a true and correct copy of a Use of Force Witness Report for Captain Latonia Monroe dated 6/14/16.

10. Attached as Exhibit "H" is a true and correct copy of excerpts from the deposition of Defendant Dion Willis.

11. Attached as Exhibit "I" is a true and correct copy of excerpts from the deposition of Plaintiff Antoine Ross.

12. Attached as Exhibit "J" is a true and correct copy of Injury to Inmate Report concerning Plaintiff's medical examination at the OBCC clinic on June 14, 2016 following the incident herein. DEF 0121.

13. Attached as Exhibit "K" is a true and correct copy of excerpts from the deposition of Physician's Assistant Larry Blackmore.

14. Attached as Exhibit "L" is a true and correct copy of the New York City Charter, Title 40, Board of Correction, §1-16 Enhanced Supervision Housing.

15. Attached as Exhibit "M" collectively is a true and correct copy of the Investigating Supervisor's Report conducted by Captain Reginal Stokes, Tour Commander's Report with concurrence by Assistant Deputy Warden Sherma Dunbar, Concurrence by Deputy Warden of Security Rubin Collins and Concurrence by Warden Carolyn Saunders.

16. Attached as Exhibit "N" is a true and accurate copy of parties "Joint Statement of Stipulated Facts."

17. Attached as Exhibit "O" is a true and accurate copy of the parties "Stipulation Regarding Video Transcript."

Dated: December 21, 2020  
Mineola, New York

Respectfully Submitted,

FRANKIE & GENTILE, P.C.

By:   
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